

REQUEST FOR APPROVAL

To: Carol Mortensen
Executive Director

From: Howard Levenson
Deputy Director, Materials Management and Local Assistance Division

Request Date: November 19, 2012

Decision Subject: Approval to Formally Notice Proposed Regulations For Form 303 Household Hazardous Waste Reporting

Action By: November 19, 2012, Revised December 13, 2012, Revised February 21, 2013.

Summary of Request: Staff requests approval to begin the formal rulemaking process and formally notice proposed regulations for Form 303 Household Hazardous Waste Reporting. Upon further analysis of stakeholder input received after the November public meeting, staff is proposing additional edits to the proposed regulations in order to clarify ambiguous language as shown in double strikeout and double underline in Attachment 1, Revised. Staff is proposing an additional edit to the proposed regulations in order to revise a category label, shown in strikeout and yellow highlight in Attachment 1, Revised. The proposed category label "Other" is being recommended as this label would more appropriately include sharps and home-generated pharmaceuticals which are currently included in Form 303 reporting.

Recommendation:

Staff recommends approval of the "Proposed Regulations For Form 303 Household Hazardous Waste Reporting" (Attachment 1, Revised) so that the regulations may be forwarded to the Office of Administrative Law and the formal regulatory process can begin.

Action:

On the basis of the information and analysis in this Request for Approval and the findings set out above, I hereby approve the "Proposed Regulations For Form 303 Household Hazardous Waste Reporting" (Attachment 1) and direct staff to forward the regulatory packet to the Office of Administrative Law so the formal regulatory process may begin.

Dated: 7 March 2013


Carol Mortensen

**Attachment 1: Proposed Regulations For Form 303 Household Hazardous Waste Reporting,
Revised 2/21/13**

Background Information, Analysis, and Findings:

To implement the Department of Resource Recycling and Recovery's (CalRecycle's) responsibilities under Public Resources Code Section 47203, CalRecycle (then the California Integrated Waste Management Board) created the "Form 303 Household Hazardous Waste Collection Information For Fiscal Year ____/____", as described in the California Code of Regulations, Title 14, Section 18751.2. This form is used to track the quantity of household hazardous waste (HHW) collected by local government agencies in California each fiscal year. All public agencies responsible for HHW management are required to submit this form to the Department of Toxic Substances Control (DTSC) each year by October 1st. DTSC submits these forms to CalRecycle, and they are subsequently compiled and posted on the CalRecycle website.

CalRecycle seeks to promulgate regulations that will streamline the Form 303 reporting process and provide clarity to the reporting by jurisdictions of HHW that is handled through a product stewardship program. Staff has met with numerous stakeholders during the last half of 2012, for example at HHW Information Exchanges, to share and solicit feedback and guidance on the informal draft regulatory text. Staff has considered these comments from the public and incorporated appropriate changes into the "Proposed Regulations For Form 303 Household Hazardous Waste Reporting" (Attachment 1).

CalRecycle staff is proposing the following changes to existing regulations:

- **Removal of the incorporated Form 303:** Forms 303a and 303b are currently incorporated into the regulations by reference. CalRecycle staff proposes the removal of the form itself from the regulations and has instead included a description of all HHW data elements required for the report.
- **Elimination of "a" and "b" forms:** Existing regulations specify two types of forms, designated "303a" and "303b", for different types of jurisdictions. CalRecycle staff believes that two different forms are unnecessary and that all jurisdictions should use a single form to report their data. Stakeholders have expressed support for this change in informal discussions.
- **Reporting exemption for specific agencies:** Existing regulations require all public agencies to submit a form, regardless of whether or not they have HHW collection data to report from the previous year. Many "lead" jurisdictions collect HHW on behalf of "non-lead" jurisdictions, and include those quantities within the "lead" jurisdiction's Form 303a. This means that "non-lead" jurisdictions may have no HHW collection quantities to report, but are still required to submit Form 303b with zero quantities reported. CalRecycle staff proposes that if all of a public agency's HHW collection quantities have been reported on another agency's Form 303, that agency is not required to submit a Form 303. This change was requested by stakeholders during informal discussions.

- **Elimination of “lead” and “non-lead” terms:** Existing regulations specify two types of jurisdictions. “Lead” jurisdictions conduct permitted HHW collection programs, while all other jurisdictions are categorized as “non-lead.” CalRecycle staff believes that these terms are unnecessary and confusing. Stakeholders have expressed support for this change in informal discussions.
- **HHW quantities managed by stewardship programs are to be reported under the “Disposition” section:** Existing regulations do not have any mechanisms to identify quantities of HHW that are managed by stewardship programs. CalRecycle staff proposes to add “Stewardship Program” as another HHW management method. This change was suggested by stakeholders during informal discussions.
- **Revision of the definition of “landfill”:** Existing regulations do not account for the fact that some universal wastes may be sent to certain non-hazardous waste landfills. CalRecycle staff proposes modifying the definition of “landfill” to include any landfill that is authorized to accept the waste.
- **HHW material categories not listed in the regulation must be reported:** Existing regulations provide a list of the current HHW categories for reporting purposes. However, if statute or regulations create new categories of HHW, it may not be clear whether or not those categories are to be reported on the Form 303. Staff proposes clarifying that these categories must be included in the report.
- **Re-naming of the “Other HHW” category:** Existing regulations characterize a material category as “Other HHW,” but staff notes that materials such as sharps and pharmaceutical waste, although currently reported under this category, are not technically HHW materials. Therefore, staff proposes that the category be renamed “Other,” a term which would more appropriately include sharps and pharmaceutical waste.

Approval of this "Proposed Regulations For Form 303 Household Hazardous Waste Reporting" Request would allow staff to file the regulatory package with the Office of Administrative Law (OAL), and, when that is published by OAL, to initiate the formal rulemaking process. CalRecycle staff anticipates that the formal rulemaking process will begin in November 2012. The regulatory process is scheduled to be completed in March 2013. Subsequently, staff plans to release the Form 303 for FY 2012/13 reporting year in early August 2013, giving local governments two months before the October 1, 2013, submittal deadline to fill out and return the form.

Attachment 1
(Revised)

Proposed Regulations for Form 303 Household Hazardous Waste Collection Report

PROPOSED REGULATIONS

FORM 303 HOUSEHOLD HAZARDOUS WASTE COLLECTION REPORT

TITLE 14: NATURAL RESOURCES
DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
CHAPTER 9. PLANNING GUIDELINES AND PROCEDURES FOR PREPARING,
REVISING, AND AMENDING COUNTYWIDE OR REGIONAL
INTEGRATED WASTE MANAGEMENT PLANS
ARTICLE 6.3. HOUSEHOLD HAZARDOUS WASTE ELEMENTS

~~Section 18751.2. Household Hazardous Waste Existing Conditions Description.~~

All public agencies responsible for household hazardous waste (HHW) management must complete and submit either the CIWMB (Board) Form CIWMB 303a (1/06) entitled "Lead Agency Form 303a Household Hazardous Waste Collection Information For Fiscal Year ____/____", or Form CIWMB 303b (1/06) entitled "Non-Lead Agency Form CIWMB 303b Household Hazardous Waste Collection Information For Fiscal Year ____/____", to the Board each year. Both forms are incorporated herein by reference and are located in Appendix A. Commencing with reports for Fiscal Year 2006/2007, Forms CIWMB 303a and CIWMB 303b shall be completed and submitted electronically to the Department of Toxic Substances Control each year, or, upon request to the CIWMB, the public agency may be exempted from filing electronically, and instead complete and submit a hard copy of either Form CIWMB 303a or CIWMB 303b. Form CIWMB 303a provides a description of the existing household hazardous waste program identifying the types and quantities of household hazardous wastes that are currently collected, reused, recycled, treated and/or otherwise managed and/or disposed through existing programs. Form CIWMB 303b provides only contact information for a non-lead agency, and provides, if applicable, for the types and quantities of universal waste collected and recycled by a non-lead agency.

The following are requirements for submitting Forms CIWMB 303a or CIWMB 303b:

(a) The reporting timeframe shall be July 1 of the previous fiscal year through June 30 of the current fiscal year, with the form required to be returned to the state by the first of October each year.

(b) The forms must be completed, to the extent applicable, whether or not waste was collected by a jurisdiction. If a public agency is not the lead agency collecting waste through a HHW program or a waste collection program was not conducted by their jurisdiction, only Form CIWMB 303b must be completed and submitted to the CIWMB.

(c) Each public agency acting as lead agency for Household Hazardous Waste collection must complete and submit one Form CIWMB 303a that includes all HHW program types including, but not limited to, permanent, temporary, recycle only, mobile, door-to-door, curbside (other than oil), and with a category designated as "Other" for additional program type identification.

1 **~~Section 18751.2.1.~~**

2 The following terms used in this Article are defined as follows:

3 ~~(a) Program types listed in Section 18751.2(c) are defined in Health and Safety Code 25218.1;~~

4 ~~(b) With the exception of electronic waste, waste types listed in Section F of Form CIWMB 303a are~~
5 ~~defined in 49 Code of Federal Regulations Section 172.101, and~~

6 ~~(c) Management Methods listed in Section F of Form CIWMB 303a have the following definitions:~~

7 ~~(1) Destructive Incineration—treatment by thermal destruction at a high temperature hazardous~~
8 ~~waste incinerator where the physical destruction is the sole intent of the treatment process.~~

9 ~~(2) Fuel Incineration—treatment by thermal destruction where the waste, either by itself or blended~~
10 ~~with another material, is burned to recover its potential thermal energy.~~

11 ~~(3) Landfill—disposal of a waste in the ground (and in this case) at a hazardous waste landfill.~~

12 ~~(4) Neutralization—treatment by chemically adjusting the pH of the waste so that the waste can be~~
13 ~~discharged into a publicly owned treatment works (does not apply if after neutralization, the waste is~~
14 ~~still hazardous and is sent for disposal or treatment by one of the other methods).~~

15 ~~(5) Recycled—waste is sent for resource recovery where the raw materials used for making the~~
16 ~~material before it became a waste are recovered to make new materials of the same or different~~
17 ~~nature (does not include fuel incineration).~~

18 ~~(6) Reused—waste is used without further treatment or handling for the original intended purpose of~~
19 ~~the material before it became a waste.~~

20 ~~(7) Stabilization—treatment where waste is chemically stabilized into a solid or semi-solid state such~~
21 ~~that it no longer exhibits hazardous characteristics and can be managed as non-hazardous waste~~
22 ~~(does not apply if after stabilization, waste is still hazardous and is sent for disposal or treatment by~~
23 ~~one of the other methods described here).~~

24
25 **Section 18751.2. Household Hazardous Waste Existing Conditions Description.**

26 This Article establishes guidelines for the Form 303 Household Hazardous Waste Collection Report,
27 which local government agencies in California must submit annually to report household hazardous
28 waste amounts collected and managed by those agencies.

29 **Authority cited:** Section 40502 of the Public Resources Code; and Section 25218.10, Health and
30 Safety Code.

31 **Reference:** Sections 41500, 41510, 41750 and 47103 of the Public Resources Code

32 **Section 18751.2.1. Definitions.**

33 (a) The following definitions shall only apply to this Article and except as otherwise noted, the
34 definitions of this Article supplement and are governed by the definitions set forth in Chapter 5
35 (commencing with §48700), Part 7, Division 30 of the Public Resources Code:

36 (1) "Must" or "shall" means a provision is mandatory.

37 (2) "May" means a provision is permissive.

1 (b) "Household hazardous waste," or "HHW" means household hazardous waste as defined in Health
2 and Safety Code §25218.1(e)

3 (c) "Permanent household hazardous waste collection facility" means a permanent household
4 hazardous waste collection facility as defined in Health and Safety Code §25218.1(h)

5 (d) Program types listed in Section 18751.2.3(c) are defined in Health and Safety Code 25218.1;

6 (e) With the exception of electronic waste, waste types listed in §18751.2.3(a)(1)-(9) are defined in
7 49 Code of Federal Regulations Section 172.101

8 (f) Management Methods listed in §18751.2.3(d) have the following definitions:

9 (1) "Destructive Incineration" means treatment by thermal destruction at a high temperature
10 hazardous waste incinerator where the physical destruction is the sole intent of the treatment
11 process.

12 (2) "Fuel Incineration" means treatment by thermal destruction where the waste, either by
13 itself or blended with another material, is burned to recover its potential thermal energy.

14 (3) "Landfill" means disposal of a waste in the ground (and in this case) at a landfill authorized
15 to accept the waste.

16 (4) "Neutralization" means treatment by chemically adjusting the pH of the waste so that the
17 waste can be discharged into a publicly owned treatment works (does not apply if after
18 neutralization, the waste is still hazardous and is sent for disposal or treatment by one of the
19 other methods).

20 (5) "Recycled" means waste is sent for resource recovery where the raw materials used for
21 making the material before it became a waste are recovered to make new materials of the
22 same or different nature (does not include fuel incineration).

23 (6) "Reused" means waste is used without further treatment or handling for the original
24 intended purpose of the material before it became a waste.

25 (7) "Stabilization" means treatment where waste is chemically stabilized into a solid or semi-
26 solid state such that it no longer exhibits hazardous characteristics and can be managed as
27 non-hazardous waste (does not apply if after stabilization, waste is still hazardous and is sent
28 for disposal or treatment by one of the other methods described here).

29 (8) "Stewardship Program" means waste is sent for management by a program run by
30 manufacturers or a designated stewardship organization to manage specified products.

31 **Authority cited:** Section 40502 of the Public Resources Code; and Section 25218.10, Health and
32 Safety Code.

33 **Reference:** Sections 41500, 41510, 41750 and 47103 of the Public Resources Code

34
35 **Section 18751.2.2. Form 303 Submittals.**

36 (a) Each public agency that is responsible for HHW management must complete and submit a "Form
37 303 Household Hazardous Waste Collection Report" (Form 303) electronically to the Department of
38 Resources Recycling and Recovery each year. The Form 303 may be submitted as a hard copy
39 instead only upon request to the Department of Resources Recycling and Recovery.

40 (b) All public agencies responsible for HHW management must submit as part of the Form 303 the
41 following information to the Department of Resources Recycling and Recovery:

1 (1) Contact information of the person responsible for submitting the HHW collection data,
2 including but not limited to:

3 (A) Name of HHW program manager

4 (B) Name of public agency

5 (C) Mailing address

6 (D) Phone Number

7 (E) E-mail address

8 (F) Contractor's name, if applicable

9 (2) Program information

10 (A) If a public agency collects HHW and reports HHW collection data on behalf of
11 another agency(ies), that agency shall provide the names of their participating
12 agency(ies).

13 (B) Information pertaining to each permanent HHW collection facility within the
14 program service area, if applicable, including but not limited to:

15 (i) Name of Facility

16 (ii) EPA ID number

17 (iii) Facility address

18 (iv) Site contact name and title

19 (v) E-mail address of site contact

20 (C) A list of Program Types used, including an EPA ID number for each program type.

21 (D) Number of households that participated in the collection program

22 (E) Number of households in service area

23 (3) Material Collection and Disposition. Each public agency that is responsible for HHW
24 management shall ensure that the amount of HHW collected through their program during the
25 preceding reporting period is reported annually, by weight in pounds. HHW collection and
26 disposition shall be described by using the categories, program types, and dispositions
27 described in Section 18751.2.3.

28 (A) A reporting agency may include HHW amounts collected on behalf of a
29 participating agency(ies) in their Form 303 Report, but is not required to report
30 specific amounts for each participating agency.

31 (B) If a public agency manages and reports HHW on behalf of a participating agency,
32 the participating agency shall only report amounts of HHW that were not already
33 reported on their behalf.

34 (c) The reporting timeframe shall be July 1 of the previous fiscal year through June 30 of that fiscal
35 year, with the information required to be submitted to the state by the October 1 of the following
36 fiscal year.

37 (d) If a public agency is collecting HHW on behalf of or through a stewardship program, the public
38 agency shall include those materials in their Form 303.

(e) A public agency is not required to submit a Form 303 only if all of that agency's HHW collection amounts have been reported on another agency's Form 303.

Authority cited: Section 40502 of the Public Resources Code; and Section 25218.10, Health and Safety Code.

Reference: Sections 41500, 41510, 41750 and 47103 of the Public Resources Code

Section 18751.2.3. Material Collection and Disposition

(a) HHW collection amounts shall be reported for the following categories:

(1) Flammable and Poison

(2) Inorganic and organic acid

(3) Inorganic and organic base

(4) Neutral oxidizers, organic peroxides, oxidizing acid/base

(5) PCB-containing materials

(6) Reclaimable

(7) Asbestos

(8) Universal Waste

(9) Other HHW

(b) If a material category not listed in (a)(1)-(9) is determined to be a hazardous waste under Health and Safety Code §25175(a)(1)-(2) or other statute or regulations, the reporting agency shall report the collection of HHW materials in that category via the form 303.

(c) Each public agency shall report the program types used to collect the HHW reported in section (a) and, if applicable, section (b). Program types include the following:

(1) Permanent HHW collection facility

(2) Temporary (periodic) facility

(3) Mobile Facility

(4) Recycle-only facility

(5) Door to Door (residential) program

(6) Curbside Program

(7) Load Check

(8) Other program type not specifically listed in (c)(1)-(7). The reporting agency shall describe the program type used.

(d) Each public agency shall report the disposition of the HHW collected by their program, by weight in pounds, during the preceding reporting period by the following categories:

(1) Destructive Incineration

(2) Fuel Incineration

- 1 (3) Landfill
- 2 (4) Neutralization/Treatment
- 3 (5) Recycled
- 4 (6) Reused
- 5 (7) Stabilization
- 6 (8) Stewardship Program. The reporting agency shall name the stewardship program(s) used.
- 7 **Authority cited:** *Section 40502 of the Public Resources Code; and Section 25218.10, Health and*
- 8 *Safety Code.*
- 9 **Reference:** *Sections 41500, 41510, 41750 and 47103 of the Public Resources Code*